IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 20802 of 2004

Between:

S. Abubakar, S/o. Ali Abbas Saheb,
A.P.S.R.T.C., Gooty Depot, Anantapur District.

..... PETITIONER

AND

1. The Depot Manager,

   A.P.S.R.T.C ITadipatri Depot, Anantapur District.
2 The Divisional Manager,

   A.P.S.R.T.C Anantapur, Anantapur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ order or orders or direction more particularly one in the nature of Writ of Mandamus declaring the proceedings No.P3/804(2)/2000 Tdp dated 7-8-2000 and the order dated 22-9-2000 of the 1st respondent and the proceedings No.Ty/19(224)/2001-DVM-A dated 21-6-2003 of the 2nd respondent as illegal, arbitrary, unjstified, unsustainable, contrary to law and violative of Article 14, 16 and 21 of the Constituin of India and set-aside the same and consequently direct the respodnents to repay the amount of Rs.14,572/- to the petitioner

Counsel for the Petitioner: MR.A.RAMA RAO

Counsel for the Respondents: MR.P.VINAYAKA SWAMY

The Court at the admission stage, made the following :

THE HON'BLE MR JUSTICE K.C.BHANU

WRIT PETITION No. 20802 of 2004

ORDER:

Challenging the order dated 22-09-2000, passed by the 1st respondent and confirmed by the 2nd respondent vide proceedings dated 21-06-2003, the present writ petition is filed.

2. The case of the petitioner is that while the petitioner was working as a Conductor in the respondent-Corporation, at Gooty Depot, on 04-04-2000, at about 22-30 hours, due to his negligence, the hand tray along with the tickets worth Rs.20,556/- were found missing and therefore a charge has been framed against the petitioner.

3. Through the order dated 07-08-2000, the 1st respondent-disciplinary authority ordered for recovery of Rs.14,572/- from the salary of the petitioner towards the value of loss of running tickets blocks and printing charges of the fresh blocks at Bangalore point. Assailing the same, the petitioner filed an appeal before the 2nd respondent. The 2nd respondent by his proceedings dated 21-06-003 confirmed the same. Hence, the present writ petition is filed.

4 . The learned counsel for the petitioner contended that as per the regulations, only the loss sustained by the Corporation in their printing costs can be recovered but not penalty. However, costs of the paper and printing charges are liable to be recovered from the persons responsible. Hence, the action of the respondents is illegal and arbitrary. In support of his contention, he relied upon a decision reported in ***CH.P.REDDY v. APSRTC, HYDERABAD***.

5 . On the other hand, the learned Standing Counsel appearing for the respondent-Corporation contended that the petitioner was responsible for missing of Hand tray consisting of tickets worth about Rs.20,556/- and after

deducting the value of full black tickets, an amount of Rs.14,556/- is to be recovered from the petitioner and therefore, the order under challenge does not suffer from any legal infirmities.

6. The charge against the petitioner reads as follows:

> "For having lost your Hand tray along with the tickets worth of Rs.20,556/- at alighting point in Bus Station, Bangalore after conducting the vehicle No.AP-10-Z 7156 on 04-04-2000 at about 22.30 hours and also you have not taken any precautionary measures to safeguard your Hand Tray along with the tickets when the passengers refused to alight from the bus and also other passengers who were in the alighting point in the Bus Station, Bangalore tried to board the said bus forcibly thinking that it will got to Anantapur which clearly reveals your carelessness and negligent attitude in discharging your legitimate duties, which constitutes misconduct.
>
> For having not reported the matter to the on duty Controller, Bangalore point about missing of your Hand tray along with the tickets worth of Rs.20,556/- on 04-04-2000 itself due to your sheer negligence and on the other day you have reported the matter on 05-04-2000 at about 4.00 hours against the rules in force since it is an important matter as the ticket tray consists worth of Rs.20,556/- of tickets, which constitutes misconduct."

7. As per clause (v) of Regulation 8 of the Andhra Pradesh State Road Transport Corporation (Conduct) Regulations, 1963 (for brevity 'Regulations, 1963'), the disciplinary authority may recover from pay of the whole or part of any pecuniary loss caused to the Corporation by an employee's negligence or breach of orders. Therefore, the action of the respondent-Corporation is contrary to the clause (v) of Regulation 8 of Regulations, 1963. Moreover, the proposition of this Court in the decision (cited supra), held that:

> "Under this provision, if the Corporation faces a pecuniary loss by an employee's negligence the amount lost by the Corporation can be recovered wholly or partly. In no case, an amount more than the amount which was lost by the Corporation can be recovered from the negligent official."

8. On considering the submissions made by the counsel for both parties and following the said proposition, the impugned order, dated 22-09-2000 ordering the recovery of value of the tickets, suffers from serious legal infirmities and hence the same is liable to be set aside.

9. Therefore, in the light of the above facts and circumstances, the impugned order dated 22-09-2000 is set aside, the matter is remitted to the Divisional Manager, Anantapur, for passing appropriate orders with regard to the value of the Hand tray and printing of tickets. In pursuance of setting aside the impugned proceedings, the petitioner is entitled for the refund of his salary, which has been withheld by the respondent-Corporation.

10. Accordingly, the writ petition is disposed of. In the circumstances, there shall be no order as to costs.

_____ December 16, 2004

Kvr

TO

1. The Depot Manager,

   A.P.S.R.T.C lTadipatri Depot, Anantapur District.

2 The Divisional Manager,

   A.P.S.R.T.C Anantapur, Anantapur District.

3 Two C.D. Copies.